

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

USDS SDNY  
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ELECTRONICALLY FILED  
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DATE FILED: 7-10-18

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PEDRO FLORES, on behalf of himself,  
individually, and on behalf of all others  
similarly-situated,

Plaintiff,

v.

NEW CITY LAWN & LANDSCAPE, INC.,  
AND JOSEPH MONTEFERRANTE,  
Defendants.  
-----X

**ORDER**

18 CV 5456 (VB)

In a written and signed submission dated June 26, 2018, plaintiff Pedro Flores advised the Court he wished to discontinue this FLSA action, with prejudice. Mr. Flores further advised the Court he had terminated his attorney, the law firm of Borrelli & Associates, PLLC, and was acting on his own behalf, pro se. (Doc. #7). In response, Thomas R. Crouch, Esq., on behalf of Borrelli & Associates, informed the Court he had not communicated with plaintiff. (Doc. #10). In his letter, Mr. Crouch requested leave to withdraw as counsel. He also requested a hearing to determine whether plaintiff had entered into a settlement with defendants, and, if so, to determine whether a lien is appropriate to collect attorneys' fees. Further, Mr. Crouch asserted that any settlement of plaintiff's FLSA claims would require Court approval under Cheeks v. Freeport Pancake House, Inc., 796 F.3d 199 (2d Cir. 2015).

The application to withdraw as counsel is GRANTED. The firm of Borrelli & Associates is relieved as plaintiff's counsel.

The application for a hearing is DENIED.

Cheeks requires district courts to approve stipulated dismissals under Fed. R. Civ. P. 41(a)(1)(A)(ii). 796 F.3d at 206. No such stipulation is before the Court. Rather, plaintiff unambiguously submitted a pre-answer notice of dismissal pursuant to Fed. R. Civ. P. 41(a)(1)(A)(i). Thus, Cheeks does not apply.

To the extent Mr. Crouch seeks attorneys' fees from plaintiff, Mr. Crouch must address that matter with his former client directly.

Accordingly, this case is DISMISSED WITH PREJUDICE pursuant to Fed. R. Civ. P. 41(a)(1)(A)(i).

The Clerk is instructed to close this case.

The Clerk is further instructed to mail a copy of this Order to plaintiff at the following address:

Pedro Flores  
143 Parkway Trailer Court  
Pomona, NY 10970

Dated: July 10, 2018  
White Plains, NY

SO ORDERED:

A handwritten signature in black ink, appearing to read 'Vincent Briccetti', written over a horizontal line.

Vincent L. Briccetti  
United States District Judge